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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,312	02/09/2004	Eun-sung Lee	277,008 DIV	6650
27849	7590	01/29/2007		
LEE & MORSE, P.C. 3141 FAIRVIEW PARK DRIVE SUITE 500 FALLS CHURCH, VA 22042			EXAMINER VU, HUNG K	
			ART UNIT	PAPER NUMBER
			2811	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/29/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/773,312

Applicant(s)

LEE ET AL.

Examiner

Hung Vu

Art Unit

2811

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 20-31 is/are pending in the application.
- 4a) Of the above claim(s) 29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20 and 24 is/are rejected.
- 7) ☒ Claim(s) 21-23, 25-28, 30 and 31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 10/384,495.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/9/04, 2/2/05, 7/13/05</u> .                                 | 6) <input type="checkbox"/> Other: _____                          |

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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Invention of 1 of Figures 3A-3F, Claims 20-28 and 30-31, in the reply filed on 11/15/06 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Applicant's election without traverse of Invention of 1 of Figures 3A-3F, Claims 20-28 and 30-31 in the reply filed on 11/15/06 is acknowledged.

2. Claim 29 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/15/06.

### ***Claim Objections***

3. Claim 23 is objected to because of the following informalities:

In claim 23, line 1, "20" should be changed to "22" for clarity.

In claim 23, lines 2-3, "a connection part" should be changed to "the connection part" for clarity.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 20 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Ma et al.  
(US 2004/0000696).

Ma et al. discloses, as shown in Figures 1-6, a MEMS device, comprising :

- a fixing part fixed to a substrate (12);
- a driving part (16) connected to the fixing part by a connecting part (26) and floating over the substrate;
- an electrode part (14a) for driving the driving part;
- contact parts (14b) selectively switchable with the driving part, wherein the electrode part and the contact parts are planarized on the substrate.

Regarding claim 24, Ma et al. discloses a width of the connection part is narrower than that of the fixing part.

***Allowable Subject Matter***

5. Claims 21-23, 25-28 and 30-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is an examiner's statement of reasons for allowance:

Applicant's claims 21-23, 25-28 and 30-31 are allowable over the references of record because none of these references disclose or can be combined to yield the claimed MEMS device comprising the electrode part includes an electrode and an insulation layer covering the electrode to electrically isolate the driving part and the electrode, as recited in claim 21; an anchor inserted between the fixing part and the substrate for fixing the fixing part on the substrate and sidewalls on at least a portion of side surfaces of the anchor, as recited in claim 22.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung Vu whose telephone number is (571) 272-1666. The examiner can normally be reached on Monday to Thursday 6:00-4:30.

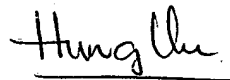
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard T. Elms can be reached on (571) 272 - 1869. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Vu

January 17, 2007

A handwritten signature in black ink, appearing to read "Hung Vu", written over a horizontal line.

Hung Vu

Primary Examiner